

**AMENDMENT No 2 TO AGREEMENT  
FOR CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this 15 day of March, 2016, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and HMM Incorporated, a California Corporation (hereafter referred to as "CONSULTANT").

**RECITALS**

WHEREAS, the parties entered into an agreement on August 19, 2014 for professional design services for the widening of Montague Expressway from Capital Avenue to east of Berryessa Creek in the amount of One Hundred Fifty Thousand One Hundred Dollars (\$152,100) ("Agreement"), and

WHEREAS, on June 2, 2015 the parties entered into Amendment No. 1 to the Agreement to allow CONSULTANT to provide additional design services for the installation of City TASP street lighting and related electrical, decorative fencing, and median landscape design services east of Berryessa Creek in the amount of Thirty Six Thousand (\$36,000), and

WHEREAS, the parties now desire to further amend the Agreement to allow CONSULTANT to provide additional design and bid support services including preparation of necessary PS&E addenda packages and incorporate changes requested by City staff and project stakeholders, address questions from bidders, and provide additional services during the project bidding phases as requested by City staff in the amount of Eleven Thousand Three Hundred and Ninety (\$11,390).

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. Section 1.1, entitled "Term of Services" of the Agreement is amended in its entirety to read as follows:

**"Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on March 1, 2017, and Consultant shall complete all the work described prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8."

2. Section 2, entitled "Compensation" of the Agreement is amended in its entirety:

**"COMPENSATION.** City hereby agrees to pay Consultant an amount not to exceed One Hundred Ninety-Nine Thousand Four Hundred and Ninety

Dollars (**\$199,490**) based on time and materials for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Exhibit B3 of the Agreement. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement."

3. Exhibit A1, entitled "Scope of Services" of the Agreement is amended to include the additional Scope of Services set forth in the attached Exhibit A3, incorporated fully herein by reference.
4. Exhibit B1, entitled "Compensation Schedule" of the Agreement is amended to include the additional compensation set forth in the attached Exhibit B3, incorporated fully herein by reference.
5. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated August 19, 2014, between HMM Incorporated and the City of Milpitas. The Consultant shall provide the City with renewal certificates of the current policies upon the expiration of the current policy.

5. All other provisions of the Agreement shall remain in full force and effect.  
This Amendment is executed as of the date written on Page 1.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

\_\_\_\_\_  
Thomas C. Williams, City Manager

\_\_\_\_\_  
HMH Incorporated

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Steven Machida, Director of Engineering

APPROVED AS TO FORM:

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Christopher J. Diaz, City Attorney

## EXHIBIT A3

### **PROJECT SCOPE:**

The project will widen Montague Expressway to provide for eight through lanes (three through plus one HOV lane each direction), one westbound auxiliary lane, widened shoulders and improved pedestrian sidewalks from Piper Drive to Pecten Court, including replacement of the double-box culvert crossing of Berryessa Creek with a bridge structure and reconstruction of the bridge approaches. The project improvements will conform to BART SVBX C700 construction at the Piper Drive intersection on the north side and near the BART tracks on the south side of Montague. The project improvements will also conform to the BART SVBX C740 design for the south leg of Milpitas Boulevard.

Amendment 1 included engineering and design services to incorporate various City of Milpitas improvements including TASP Lighting and related electrical, decorative fencing, and median landscape design that were not required for the bridge reconstruction into Montague Expressway PS&E package. These additional City of Milpitas improvements were incorporated into the PS&E finalized by the County of Santa Clara for advertisement, bidding and construction by VTA.

Amendment 2 provides for bid support services to effectively address questions from bidders, prepare necessary addenda, and incorporate other changes requested by the City of Milpitas, HMH will provide additional services during the bidding phase for the project that are not covered within the currently approved scope of work. These tasks and fees are detailed below.

### **AMENEDMENT 2 SCOPE OF SERVICES:**

#### **1. 805 Bid Phase Services for Water, Recycled Water and Other COM Additional Improvements**

Provide bidding support services, including preparing responses to questions from potential bidders and preparing addenda to address issues raised by City staff and potential bidders, as requested by City staff, incorporate additional improvement designs to be incorporated through the addenda process including potable water, recycled water, landscaping and optional bid items,

#### **2. 810 Bid Phase Services to Modify Stage Construction along South Milpitas Boulevard near Garden Street**

Prepare revisions to, and re-issue 10 stage construction drawings as part of addendum to include changes requested by the City staff on South Milpitas Blvd at Garden Street as required for coordination with developers.

Changes will show that recent channelization improvements at Garden Street were incorporated into stage construction drawings to maintain access for the adjacent development projects currently under construction.

## COMPENSATION SCHEDULE

Professional Service Fees are as follows:

Description	Fees
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<b>805 Bid Phase Services for Water, Recycled Water and Other COM Additional Improvements</b>	
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Principal, 2 hours @ \$200/hr	\$400
Engineering Manager, 9 hours @ \$166/hr	\$1,494
Senior Engineer, 28 hours @ \$148/hr	\$4,144
Project Civil Engineer, 1 hour @ \$136/hr	\$136
Senior Technician, 8 hours @ \$126/hr	\$1,008

Subtotal: \$7182

<b>810 Bid Phase Services to Modify Stage Construction along South Milpitas Boulevard near Garden Street</b>	
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Senior Civil Engineer, 8 hours @ \$148/hr	\$1,184
Senior Technician, 24 hours @ \$126/hr	\$3,024

Subtotal 4208

**\$11,390**

Total Not To Exceed